



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TJR
Docket No: 8100-99
28 June 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 13 June 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Navy on 10 October 1980 at the age of 18. Your record reflects that on 30 April 1981 you received nonjudicial punishment (NJP) for two specifications of failure to obey a lawful order, making a false official statement and one day of unauthorized absence (UA). The punishment imposed was restriction and extra duty for 20 days.

Your record further reflects that on 18 January and again on 11 August 1982 you received NJP for three periods of absence from your appointed place of duty, insubordination, and two incidents of failure to obey a lawful order. On 14 December 1982 you were convicted by summary court-martial (SCM) of one day of UA and two specifications each of failure to go to your appointed place of duty and failure to obey a lawful order. You were sentenced to confinement at hard labor for 30 days and reduction to paygrade E-1. Approximately five months later, on 6 and 13 May 1983, you received NJP for absence from your appointed place of duty and disrespect.

On 16 May 1983 you were notified of pending administrative separation action by reason of misconduct due to frequent involvement of a discreditable nature with military authorities and a pattern of misconduct. At this time you waived your rights to consult with legal counsel and to present your case to an administrative discharge board, but elected to submit a statement in rebuttal to the discharge. The commanding officer recommended be issued an other than honorable discharge by reason of misconduct. The discharge authority approved this recommendation and directed your commanding officer to issue you an other than honorable discharge. On 3 June 1983 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contention that you would like your discharge upgraded. The Board also considered your contention that you were told that your discharge would be automatically upgraded 15 years after your separation. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your frequent misconduct, which resulted in five NJPs and a court-martial conviction during an which lasted for less than three years. Further, no discharge is upgraded merely because of the passage of time. Given all the circumstances of your case, the Board concluded the your discharge was proper and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director